

720.1181
SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
TAX DIVISION

MAY 11 1979

NATIONAL GRADUATE UNIVERSITY,)

Petitioner)

v.)

DISTRICT OF COLUMBIA.)

Respondent)

FILED

Docket No. 2300

MEMORANDUM OPINION
AND ORDER

This is an appeal from a real property tax assessment made for Fiscal Year 1975 against the real property located at 5011 Lowell Street, N.W. in the District of Columbia, the property being legally described as Lot 31 in Square 1436. The petitioner contends that the property is exempt from the tax by virtue of D. C. Code 1973. §47-801a(j) and (r).

I

The petitioner's predecessor was incorporated in Maryland in 1967 under the name of Potomac University. Petitioner entered into a one-year written lease for office space at 3408 Wisconsin Ave., N.W. in the District of Columbia in January 1974. That space is used by the petitioner for class rooms, seminar, library and administrative purposes. The District of Columbia Board of Higher Education (Board) granted provisional approval to petitioner to confer degrees of master of arts in human science and master of management service in November 1973. That license has been extended by subsequent actions of the Board.

Petitioner is a corporation existing under the District of Columbia Non-Profit Corporation Act and at all relevant times has been exempt from federal income taxes by virtue of 26 U.S.C. §501(c)(3).

It purchased the Lowell Street property in November 1972 and owns that property in fee simple. The property is used as the official residence of the president of the university. Prior to that purchase the petitioner maintained the president's residence at 5400 Grosvenor Lane, Bethesda, Maryland, and allowed him to live on that property rent free, for the convenience of the university. The quarters were a part of the compensation to the president.

The president lives on the subject property rent free as one of the conditions of his employment. He is required to carry out administrative duties as well as the normal responsibilities of his office, including receptions, social programs, entertaining visiting scholars and contributors to the university as well as semi-monthly informal meetings of faculty and students of the university. He maintains an office on the property and his wife also performs university functions from her office on the property. The house is connected with the central office of the university by direct phone and when the central office is closed, the phones are answered at the president's residence. Two bedrooms in the house are used for graduate students and visiting students.

II

The sole issue is whether the subject property is exempt from real property taxes pursuant to Sections 47-801a(j) or (r). Section 47-801a(j) exempts buildings "belonging to and operated by schools . . . not organized or operated for private gain, and which embrace the generally recognized relationship of teacher and student". Section 47-801a(r) exempts "grounds belonging to and reasonably required and actually used" for the purposes of an organization exempt under Section 47-801a(j), among others.

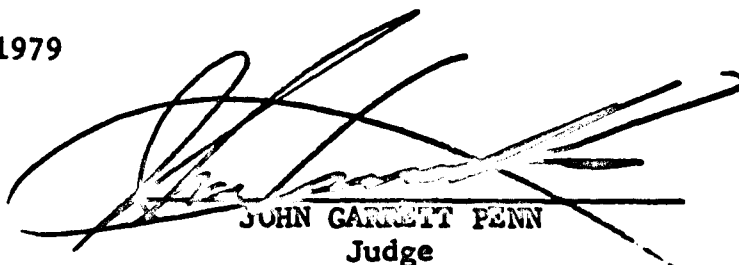
The subject property is the official residence of the petitioner's president and he is required to live there and maintain an office there. His residence there is a part of his contract with petitioner. He has no interest in the property and he may live there while he performs his official duties with the university. The house also reflects a part of his compensation and he performs a number of services in the house on behalf of the university. His living there is for the convenience of the school. See generally, Annot., 55 ALR 3d 485 (1974). The house serves as a meeting place for students and a dormitory for certain visiting students. Under these circumstances, the property is not subject to the tax and is exempt under Sections 47-804a(j) and (r). District of Columbia v. The Brookings Institution, 103 U.S. App. D.C. 98, 254 F.2d 955 (1953).

O R D E R

In view of the above, it is hereby

ORDERED that the real property belonging to the petitioner and located at 5011 Lowell Street, N.W. in the District of Columbia, the property being legally described as Lot 31 in Square 1436, is exempt from taxation from July 1, 1974 until such time as it no longer qualifies for exemption pursuant to D. C. Code 1973, §47-801a(j) and (r).

Dated: May 11, 1979


JOHN GARRETT PENN
Judge

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Assistant Corporation Counsel
Counsel for Respondent

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to 100-100000-100000
5/14/79, 1979

Mr. Kenneth Dack
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5/17/79